

Rule 11-202. Judges pro tempore.

Intent:

To establish guidelines for the qualifications and authority and a procedure for the appointment of judges pro tempore.

Applicability:

This rule shall apply to the judiciary and the members of the Utah State Bar.

Statement of the Rule:

(1) Qualifications.

(1)(A) Judges pro tempore shall be citizens of the United States, residents of the State of Utah, and shall have been admitted to the practice of law in Utah for a minimum of ~~one year~~ four years.

(1)(B) Judges pro tempore must possess ability in the types of cases to be assigned and good character.

(1)(C) A judge pro tempore assigned small claims cases shall complete a small claims orientation program within one year after appointment and thereafter complete at least three hours of small claims education annually. The administrative office of the courts shall offer appropriate education opportunities.

(2) Application.

(2)(A) Appointments under sections (3)(A) and (3)(B).

(2)(A)(i) The Administrative Office shall distribute applications for judges pro tempore to all court executives. The application shall make appropriate inquiry concerning an applicant's professional qualifications, physical and mental health, character, and potential areas of conflict of interest.

(2)(A)(ii) A person interested in an appointment as a judge pro tempore shall complete the application and submit it with a resume to the presiding judge.

(2)(A)(iii) Upon receipt of an application, the presiding judge shall file the application and resume with the Administrative Office and certify that:

(2)(A)(iii)(a) the applicant is qualified;

(2)(A)(iii)(b) there is an extraordinary need for the appointment;

(2)(A)(iii)(c) all other options to accommodate the need have been exhausted; and

(2)(A)(iii)(d) the matters to be assigned are suitable for consideration by a judge pro tempore.

(2)(B) Appointments under section (3)(C).

(2)(B)(i) The Administrative Office shall prepare a press release similar in content and format to a press release for a judicial vacancy. The Administrative Office shall provide the press release to the Salt Lake Tribune, the Deseret News, local newspapers with circulation within the geographic venue of the court and the Utah Bar Journal, if the timing of the announcement is such that publication in the Journal would be effective. The Administrative Office of the Courts shall also provide the press release to any local bar associations within the geographic venue of the court. The Administrative Office may provide the press release to any other organization or individual capable of notifying persons qualified for the office.

(2)(B)(ii) A person interested in an appointment as a judge pro tempore shall complete the application and submit it with a resume to the Administrative Office.

(2)(B)(iii) The presiding judge of the court to be served by the judge pro tempore shall appoint a selection committee to make recommendations regarding appointment.

(2)(B)(iv) The presiding judge shall submit to the Supreme Court the name of the applicant recommended for appointment and the application, resume and results of the records check for the applicant. The presiding judge shall certify that:

(2)(B)(iv)(a) the applicant is the most qualified;

(2)(B)(iv)(b) there is an extraordinary need for the appointment;

(2)(B)(iv)(c) all other options to accommodate the need have been exhausted; and

(2)(B)(iv)(d) the matters to be assigned are suitable for consideration by a judge pro tempore.

(2)(C)(i) Upon receipt of the application and resume, the Administrative Office shall conduct a check of Utah records to determine whether the applicant has been:

(2)(C)(i)(a) a defendant in any bar or judicial disciplinary proceeding;

(2)(C)(i)(b) arrested;

(2)(C)(i)(c) a defendant in any misdemeanor or felony complaint; or

(2)(C)(i)(d) a party in any civil case.

(2)(C)(ii) For appointments under sections (3)(A) and (3)(B), the Administrative Office shall deliver the application and resume, certification by the presiding judge, and the results of the records check to the Supreme Court. For appointments under section (3)(C), the Administrative Office shall deliver the application and resume and the results of the records check to the presiding judge.

(3) Appointment. The Supreme Court, through the Chief Justice, may appoint judges pro tempore to serve on any trial court:

(3)(A) on a case by case basis;

(3)(B) for a period of time not to exceed two years for small claims cases or petitions against minors for possession or use of tobacco; or

(3)(C) for a period of time not to exceed six months for other cases.

(4) Upon the request of the presiding judge, the Supreme Court, through the Chief Justice, may appoint a justice court judge or a court commissioner as a judge pro tempore for a period of time not to exceed five days. Subsection (2) does not apply to appointments under this subsection.

~~(4)(5)~~ Removal - Oath - Authority.

~~(4)(A)-(5)(A)~~ Regardless of the stated period of appointment or appointment on a case by case basis under subpart (3), the office of judge pro tempore is held at the will of the Supreme Court. The Supreme Court may withdraw an order of appointment with or without cause by providing notice of the order of withdrawal to the appointee.

~~(4)(B)-(5)(B)~~ A person appointed to the position of a judge pro tempore shall take and subscribe to an oath of office upon the first appointment in that court.

~~(4)(C)-(5)(C)~~ Judges pro tempore shall have all the power and authority of the judges of that court during the period of appointment except that they shall not exercise judicial authority beyond the case to which they are assigned such as the performance of marriages. A judge pro tempore shall have all of the privileges and immunities of a judge with respect to the case or cases to which the judge pro tempore is assigned.

~~(5)-(6)~~ Limit on reappointment. Any appointment made under subpart (3)(C) may be renewed only once.

~~(6)-(7)~~ Compensation.

~~(6)(A)~~ ~~(7)(A)~~ Except as provided in this subpart, judges pro tempore shall serve without compensation.

~~(6)(B)~~ ~~(7)(B)~~ Judges pro tempore may receive reimbursement for necessary travel expenses actually incurred in the performance of their duties.

~~(6)(C)~~ ~~(7)(C)~~ Judges pro tempore employed by the courts in another capacity shall not receive additional compensation.

~~(6)(D)~~ ~~(7)(D)~~ Judges pro tempore appointed under subpart (3)(C) may be compensated upon the written request of the presiding judge(s) and with the concurrence of the Chief Justice and the State Court Administrator.